

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:13-CR-00264-FDW

UNITED STATES OF AMERICA)
)
 v.) **ORDER**
YOLANDA GONZALEZ,)
)
Defendant.)
)

THIS MATTER is before the Court on Defendant's Motion for Reconsideration (Doc. No. 271) of the Court's Order denying her motion for a reduced sentence (Doc. No. 268). For the reasons set forth below, Defendant's Motion is **DENIED**.

On February 13, 2024, the Court denied Defendant's motion for a sentence reduction under Amendment 821 to the United States Sentencing Guidelines because she did not meet the criteria under § 4C1.1 due to the following exclusion under subsection (a)(10): she received an adjustment under § 3B1.1 (Aggravating Role). (Doc. No. 268.) Defendant asks the Court to reconsider that conclusion because she has a pending motion under 28 U.S.C. § 2255 arguing trial counsel was ineffective, in part, because he allegedly did not provide her a copy of her presentence report before sentencing to allow her time to review it and make objections. (Doc. No. 271.) Presumably, Defendant would have objected to the application of the Aggravating Role enhancement to her total offense level.

As an initial matter, Defendant's motion is improper because the Federal Rules of Criminal Procedure do not provide for motions for reconsideration. Typically, a party may move for reconsideration under Rule 60(b) of the Federal Rules of Civil Procedure. Rule 60(b), which permits motions for reconsideration, does not apply here because this is a criminal proceeding.

Nonetheless, even if the rule could apply to this proceeding, Defendant's motion is without merit. The Court has not ruled on Defendant's pending § 2255 petition. The Court cannot grant Defendant's motion for reconsideration and reduce her sentence simply because she represents that her § 2255 petition has merit. To the extent Defendant relies on the arguments in her § 2255 petition to argue she should receive a sentence reduction under Amendment 821, those arguments are premature.

IT IS THEREFORE ORDERED that Defendant's Motion for Reconsideration, (Doc. No. 271), is **DENIED**.

IT IS SO ORDERED.

Signed: March 11, 2024


Frank D. Whitney
United States District Judge